

1 AN ACT concerning insurers. 55

2 Be it enacted by the People of the State of Illinois, 59
3 represented in the General Assembly: 60

4 Section 5. The Illinois Insurance Code is amended by 63
5 changing Sections 10, 40, 131.20a, 187, and 188 and adding 64
6 Section 131.20b as follows:

7 (215 ILCS 5/10) (from Ch. 73, par. 622) 67

8 Sec. 10. Directors. 69

9 (1) After the date of incorporation, as determined by 72
10 Section 18, and until the first meeting of shareholders, the
11 incorporators shall have the powers and perform the duties 73
12 ordinarily possessed and exercised by a board of directors. 74

13 (2) Upon the issuance of a certificate of authority to a 76
14 company organized under this article, the corporate powers 77
15 shall be exercised by, and its business and affairs shall be 78
16 under the control of, a board of directors composed of not 79
17 less than 3 nor more than 21 natural persons who are 80
18 shareholders, except where the Company is a wholly owned
19 subsidiary, and who are at least 18 years of age and at least 81
20 3 of whom are residents and citizens of this State. After 83
21 June 30, 2002, at least 20%, but not less than one, of the 84
22 directors of a company that is not subject to Section 131.20b
23 shall be persons who are not officers or employees of the 85
24 company. A person convicted of a felony may not be a 87
25 director, and all directors shall be of good character and
26 known professional, administrative, or business ability, such 88
27 business ability to include a practical knowledge of 89
28 insurance, finance, or investment. The first board of 91
29 directors shall be elected at the first meeting of 92
30 shareholders, and, except as provided in subsection (3)
31 below, all directors shall be elected annually thereafter. 93

Clerk of the House

Originated in the House of Representatives

PUBLIC ACT 92-140

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1 (3) If the board of directors consists of 6 or more 95
2 members, in lieu of electing the membership of the whole 96
3 board of directors annually, the articles of incorporation 97
4 may provide that the directors shall be divided into two or 98
5 three classes, each class to be as nearly equal in number as
6 is possible. The term of office of directors of the first 99
7 class shall expire at the first annual meeting of 100
8 shareholders after their election, that of the second class 101
9 shall expire at the second annual meeting after their
10 election, and that of the third class, if any, shall expire 102
11 at the third annual meeting after their election. At each 103
12 annual meeting after such classification, a number of 104
13 directors equal to the number of directors in the class whose 105
14 terms expire at the time of such meeting shall be elected to 106
15 hold office until the second succeeding annual meeting, if
16 there are two classes, or until the third succeeding annual 107
17 meeting, if there are three classes. 108

18 (4) In all elections for directors every shareholder of 110
19 common shares has the right to vote, in person or by proxy, 111
20 for the number of common shares owned by him, for as many 112
21 persons as there are directors to be elected, or to cumulate 113
22 his shares, and give one candidate as many votes as the 114
23 number of directors multiplied by the number of his shares
24 equals, or to distribute them on the same principle among as 115
25 many candidates as he thinks fit, and directors shall not be 116
26 elected in any other manner.

27 (5) Meetings of the board of directors, regular or 118
28 special, may be held either within or without the State. 119
29 Meetings of the board of directors shall be upon such notice 120
30 as the by-laws may prescribe. Attendance of a director at any 121
31 meeting shall constitute a waiver of notice of such meeting
32 except where a director attends the meeting for the express 122
33 purpose of objecting to the transaction of any business 123
34 because the meeting is not lawfully called or convened. 124

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1 Neither the business to be transacted at, nor the purpose of, 125
2 any regular or special meeting of the board of directors need 126
3 be specified in the notice or waiver of notice of such
4 meeting, unless expressly otherwise provided by this Code. 127
5 Unless specifically prohibited by the articles of 128
6 incorporation or by-laws, members of the board of directors 129
7 or of any committee of the board of directors may participate 130
8 in and act at any meeting of such board or committee through 131
9 the use of a conference telephone or other communications
10 equipment by means of which all persons participating in the 132
11 meeting can hear each other. Participation in such meeting 133
12 shall constitute attendance and presence in person at the 134
13 meeting of the person or persons so participating. Unless 135
14 specifically prohibited by the articles of incorporation or 136
15 by-laws, members of the board of directors or of any
16 committee of the board of directors may take action without a 137
17 meeting, if a consent in writing setting forth the action so 138
18 taken shall be signed by all of the directors entitled to 139
19 vote with respect to the subject matter thereof, or by all of 140
20 the members of such committee, as the case may be. The 141
21 consent shall be evidenced by one or more written approvals,
22 each of which sets forth the action taken and bears the 142
23 signature of one or more directors or committee members. All 143
24 approvals evidencing the consent shall be filed in the 144
25 company's corporate records. The action taken shall be
26 effective when all of the directors, or members of the 145
27 committee, have approved the consent unless the consent 146
28 specifies a different effective date.

29 (6) If the number of directors provided for in the 148
30 articles of incorporation be indefinite, the number of 149
31 directors to be elected, within the minimum and maximum 150
32 limits set forth in paragraph (2), shall be as provided in 151
33 the by-laws. The number of directors may be increased or
34 decreased from time to time by amendment to the by-laws. The 153

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1 by-laws may establish a variable range for the size of the
2 board by prescribing a minimum and maximum number of 154
3 directors. The maximum may not exceed the minimum by more 155
4 than 5. If a variable range is established, the number of 156
5 directors may be fixed or changed from time to time, within
6 the minimum and maximum, by the directors or the shareholders 157
7 without further amendment to the by-laws. 158

8 (7) (a) A company may indemnify any person who was or is 160
9 a party or is threatened to be made a party to any 161
10 threatened, pending or completed action, suit or proceeding, 162
11 whether civil, criminal, administrative or investigative 163
12 (other than an action by or in the right of the company) by
13 reason of the fact that he or she is or was a director, 164
14 officer, employee or agent, against expenses (including 165
15 attorneys' fees), judgments, fines and amounts paid in 166
16 settlement actually and reasonably incurred by such person in 167
17 connection with such action, suit or proceeding, if such
18 person acted in good faith and in a manner he or she 168
19 reasonably believed to be in, or not opposed to the best 169
20 interests of the company, and, with respect to any criminal 170
21 action or proceeding, had no reasonable cause to believe his
22 or her conduct was unlawful. The termination of any action, 171
23 suit or proceeding by judgment, order, settlement, 172
24 conviction, or upon a plea of nolo contendere or its 173
25 equivalent, shall not, of itself, create a presumption that 174
26 the person did not act in good faith and in a manner which he
27 or she reasonably believed to be in or not opposed to the 175
28 best interest of the company or, with respect to any criminal 176
29 action or proceeding, that the person had reasonable cause to 177
30 believe that his or her conduct was unlawful.

31 (b) A company may indemnify any person who was or is a 179
32 party, or is threatened to be made a party to any threatened, 180
33 pending or completed action or suit by or in the right of the 181
34 company to procure a judgment in its favor by reason of the 182

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1 fact that such person is or was a director, officer, employee 183
2 or agent of the company, or is or was serving at the request 184
3 of the company as a director, officer, employee or agent of
4 another company, partnership, joint venture, trust or other 185
5 enterprise, against expenses (including attorneys' fees) 186
6 actually and reasonably incurred by such person in connection 187
7 with the defense or settlement of such action or suit, if 188
8 such person acted in good faith and in a manner he or she 189
9 reasonably believed to be in, or not opposed to the best
10 interests of the company, provided that no indemnification 190
11 shall be made in respect of any claim, issue or matter as to 191
12 which such person shall have been adjudged to be liable for 192
13 negligence or misconduct in the performance of his or her 193
14 duty to the company, unless, and only to the extent that the
15 court in which such action or suit was brought shall 194
16 determine upon application that, despite the adjudication of 195
17 liability, but in view of all the circumstances of the case, 196
18 such person is fairly and reasonably entitled to 197
19 indemnification for such expenses as the court shall deem
20 proper.

21 (c) To the extent that a director, officer, employee or 199
22 agent of a company has been successful, on the merits or 200
23 otherwise, in the defense of any action, suit or proceeding 201
24 referred to in subsections (a) and (b), or in defense of any 202
25 claim, issue or matter therein, such person shall be
26 indemnified against expenses (including attorneys' fees) 203
27 actually and reasonably incurred by such person in connection 204
28 therewith.

29 (d) Any indemnification under subsections (a) and (b) 206
30 (unless ordered by a court) shall be made by the company only 207
31 as authorized in the specific case, upon a determination that 208
32 indemnification of the director, officer, employee or agent 209
33 is proper in the circumstances because he or she has met the 210
34 applicable standard of conduct set forth in subsections (a)

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1 or (b). Such determination shall be made (1) by the board of 211
2 directors by a majority vote of a quorum consisting of 212
3 directors who were not parties to such action, suit or 213
4 proceeding, or (2) if such a quorum is not obtainable, or
5 even if obtainable, if a quorum of disinterested directors so 214
6 directs, by independent legal counsel in a written opinion, 215
7 or (3) by the shareholders.

8 (e) Expenses incurred in defending a civil or criminal 217
9 action, suit or proceeding may be paid by the company in 218
10 advance of the final disposition of such action, suit or 219
11 proceeding, as authorized by the board of directors in the 220
12 specific case, upon receipt of an undertaking by or on behalf
13 of the director, officer, employee or agent to repay such 221
14 amount, unless it shall ultimately be determined that he or 222
15 she is entitled to be indemnified by the company as 223
16 authorized in this Section.

17 (f) The indemnification provided by this Section shall 225
18 not be deemed exclusive of any other rights to which those 226
19 seeking indemnification may be entitled under any by-law, 227
20 agreement, vote of shareholders or disinterested directors, 228
21 or otherwise, both as to action in his or her official 229
22 capacity and as to action in another capacity while holding
23 such office, and shall continue as to a person who has ceased 230
24 to be a director, officer, employee or agent, and shall inure 231
25 to the benefit of the heirs, executors and administrators of 232
26 such a person.

27 (g) A company may purchase and maintain insurance on 234
28 behalf of any person who is or was a director, officer, 235
29 employee or agent of the company, or who is or was serving at 236
30 the request of the company as a director, officer, employee 237
31 or agent of another company, partnership, joint venture,
32 trust or other enterprise, against any liability asserted 238
33 against such person and incurred by such person in any such 239
34 capacity, or arising out of his or her status as such, 240

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1 whether or not the company would have the power to indemnify 241
2 such person against such liability under the provisions of
3 this Section.

4 (h) If a company has paid indemnification or has 243
5 advanced expenses to a director, officer, employee or agent, 244
6 the company shall report the indemnification or advance in 245
7 writing to the shareholders with or before the notice of the 246
8 next shareholders meeting.

9 (i) For purposes of this Section, references to "the 248
10 company" shall include, in addition to the surviving company, 249
11 any merging company (including any company having merged with 250
12 a merging company) absorbed in a merger which, if its 251
13 separate existence had continued, would have had the power 252
14 and authority to indemnify its directors, officers, and
15 employees or agents, so that any person who was a director, 253
16 officer, employee or agent of such merging company, or was 254
17 serving at the request of such merging company as a director, 255
18 officer, employee or agent of another company, partnership, 256
19 joint venture, trust or other enterprise, shall stand in the
20 same position under the provisions of this Section with 257
21 respect to the surviving company as such person would have 258
22 with respect to such merging company if its separate 259
23 existence had continued.

24 (j) For purposes of this Section, references to "other 261
25 enterprises" shall include employee benefit plans; references 262
26 to "fines" shall include any excise taxes assessed on a 263
27 person with respect to any employee benefit plan; and 264
28 references to "serving at the request of the company" shall
29 include any service as a director, officer, employee or agent 265
30 of the company which imposes duties on, or involves services 266
31 by such director, officer, employee, or agent with respect to 267
32 any employee benefit plan, its participants, or 268
33 beneficiaries. A person who acted in good faith and in a
34 manner he or she reasonably believed to be in the best 269

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1 interests of the participants and beneficiaries of any 270
2 employee benefit plan shall be deemed to have acted in a 271
3 manner "not opposed to the best interest of the company" as 272
4 referred to in this Section.
5 (Source: P.A. 88-648, eff. 9-16-94.) 274

6 (215 ILCS 5/40) (from Ch. 73, par. 652) 277
7 Sec. 40. Directors or trustees. 279

8 (1) After the date of incorporation, as determined by 282
9 Section 48, and until the first meeting of the members, the
10 incorporators shall have the powers and perform the duties 283
11 ordinarily possessed and exercised by a board of directors. 284

12 (2) Upon the issuance of a certificate of authority to a 286
13 company organized under this Article, the corporate powers 287
14 shall be exercised by, and its business and affairs shall be 288
15 under the control of, a board of directors or trustees 289
16 composed of not less than 3 nor more than 21 natural persons 290
17 who are members and who are at least 18 years of age and at 291
18 least 3 of whom are residents and citizens of this State. 292
19 After June 30, 2002, at least 20%, but not less than one, of 294
20 the directors of a company that is not subject to Section
21 131.20b shall be persons who are not officers or employees of 295
22 the company. A person convicted of a felony may not be a 296
23 director, and all directors shall be of good character and 297
24 known professional, administrative, or business ability, such 298
25 business ability to include a practical knowledge of 299
26 insurance, finance, or investment. The first board of 301
27 directors or trustees shall be elected at the first meeting 302
28 of the members, and all directors or trustees shall be
29 elected annually thereafter, except only as provided in 303
30 subsection (3).

31 (3) The articles of incorporation may provide for the 305
32 division of the board into classes, as nearly equal in number 306
33 as possible, and fix the term of office for each class, but 307

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1 no term shall be for more than 3 years.

2 (4) Meetings of the board of directors or trustees, 309

3 regular or special, may be held either within or without the 310

4 State. Meetings of the board of directors or trustees shall 311

5 be upon such notice as the by-laws may prescribe. Attendance 312

6 of a director or trustee at any meeting shall constitute a 313

7 waiver of notice of such meeting except where a director or

8 trustee attends the meeting for the express purpose of 314

9 objecting to the transaction of any business because the 315

10 meeting is not lawfully called or convened. Neither the 316

11 business to be transacted at, nor the purpose of, any regular 317

12 or special meeting of the board of directors or trustees need

13 be specified in the notice or waiver of notice of such 318

14 meeting, unless expressly otherwise provided by this Code. 319

15 Unless specifically prohibited by the articles of 320

16 incorporation or by-laws, members of the board of directors 321

17 or of any committee of the board of directors may participate 322

18 in and act at any meeting of such board or committee through

19 the use of a conference telephone or other communications 323

20 equipment by means of which all persons participating in the 324

21 meeting can hear each other. Participation in such meeting 325

22 shall constitute attendance and presence in person at the 326

23 meeting of the person or persons so participating. Unless 327

24 specifically prohibited by the articles of incorporation or 328

25 by-laws, members of the board of directors or of any

26 committee of the board of directors may take action without a 329

27 meeting, if a consent in writing setting forth the action so 330

28 taken shall be signed by all of the directors entitled to 331

29 vote with respect to the subject matter thereof, or by all of 332

30 the members of such committee, as the case may be. The 333

31 consent shall be evidenced by one or more written approvals,

32 each of which sets forth the action taken and bears the 334

33 signature of one or more directors or committee members. All 335

34 approvals evidencing the consent shall be filed in the 336

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1 company's corporate records. The action taken shall be
2 effective when all of the directors, or members of the 337
3 committee, have approved the consent unless the consent 338
4 specifies a different effective date.

5 (5) A company may indemnify any person in conformance 340
6 with subsection (7) of Section 10. 341
7 (Source: P.A. 86-632.) 343

8 (215 ILCS 5/131.20a) (from Ch. 73, par. 743.20a) 346
9 Sec. 131.20a. Prior notification of transactions; 348
10 dividends and distributions. 349

11 (1) (a) The following transactions between a domestic 351
12 company and any person in its holding company system may not 352
13 be entered into unless the company has notified the Director 353
14 in writing of its intention to enter into such transaction at 354
15 least 30 days prior thereto, or such shorter period as the 355
16 Director may permit, and the Director has not disapproved it 356
17 within such period:

18 (i) Sales, purchases, exchanges of assets, loans or 358
19 extensions of credit, guarantees, investments, or any 359
20 other transaction (A) that involves involving the 360
21 transfer of assets from or liabilities to a company equal 361
22 to or exceeding the lesser of 3% of the company's 362
23 admitted assets or 25% of its surplus as regards 363
24 policyholders as of the 31st day of December next 365
25 preceding or (B) that is proposed when the domestic 366
26 company is not eligible to declare and pay a dividend or 367
27 other distribution pursuant to the provisions of Section 368
28 27.

29 (ii) Loans or extensions of credit to any person 370
30 that is not an affiliate (A) that which involve the 371
31 lesser of 3% of the company's admitted assets or 25% of 373
32 the company's surplus, each as of the 31st day of
33 December next preceding, made with the agreement or 374

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1 understanding that the proceeds of such transactions, in 375
2 whole or in substantial part, are to be used to make
3 loans or extensions of credit to, to purchase assets of, 376
4 or to make investments in, any affiliate of the company 377
5 making such loans or extensions of credit or (B) that are 378
6 proposed when the domestic company is not eligible to
7 declare and pay a dividend or other distribution pursuant 380
8 to the provisions of Section 27. 381
9 (iii) Reinsurance agreements or modifications 383
10 thereto, including those agreements that may require as 384
11 consideration the transfer of assets from an insurer to a 385
12 nonaffiliate, if an agreement or understanding exists
13 between the insurer and nonaffiliate that any portion of 386
14 those assets will be transferred to one or more 387
15 affiliates of the insurer.
16 (iv) All management agreements, service contracts, 389
17 cost-sharing arrangements, and any other contracts 390
18 providing for the rendering of services on a regular 391
19 systematic basis.
20 (v) Any series of the previously described 393
21 transactions that are substantially similar to each 394
22 other, that take place within any 180 day period, and 395
23 that in total are equal to or exceed the lesser of 3% of
24 the domestic insurer's admitted assets or 25% of its 397
25 policyholders surplus, as of the 31st day of the December 398
26 next preceding.
27 (vi) Any other material transaction that the 400
28 Director by rule determines might render the company's 402
29 surplus as regards policyholders unreasonable in relation 404
30 to the company's outstanding liabilities and inadequate
31 to its financial needs or may otherwise adversely affect 405
32 the interests of the company's policyholders or 406
33 shareholders.
34 Nothing herein contained shall be deemed to authorize or 408

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1 permit any transactions that, in the case of an insurer not a 409
2 member of the same holding company system, would be otherwise 410
3 contrary to law.

4 (b) Any transaction or contract otherwise described in 412
5 paragraph (a) of this subsection that is between a domestic 413
6 insurer and any person that is not its affiliate and that 414
7 precedes or follows within 180 days or is concurrent with a
8 similar transaction between that nonaffiliate and an 415
9 affiliate of the domestic company and that involves amounts 416
10 that are equal to or exceed the lesser of 3% of the domestic 417
11 insurer's admitted assets or 25% of its surplus as regards
12 policyholders at the end of the prior year may not be entered 418
13 into unless the company has notified the Director in writing 419
14 of its intention to enter into the transaction at least 30 420
15 days prior thereto or such shorter period as the Director may 421
16 permit, and the Director has not disapproved it within such
17 period. 422

18 (c) A company may not enter into transactions which are 424
19 part of a plan or series of like transactions with any person 426
20 within the holding company system if the purpose of those 427
21 separate transactions is to avoid the statutory threshold 428
22 amount and thus avoid the review that would occur otherwise. 429
23 If the Director determines that such separate transactions
24 were entered into for such purpose, he may exercise his 431
25 authority under subsection (2) of Section 131.24.

26 (d) The Director, in reviewing transactions pursuant to 433
27 paragraph (a), shall consider whether the transactions comply 434
28 with the standards set forth in Section 131.20 and whether 435
29 they may adversely affect the interests of policyholders. 436

30 (e) The Director shall be notified within 30 days of any 438
31 investment of the domestic insurer in any one corporation if 439
32 the total investment in that corporation by the insurance 440
33 holding company system exceeds 10% of that corporation's 441
34 voting securities.

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1 (f) Except for those transactions subject to approval 443
2 under other Sections of this Code, any such transaction or 447
3 agreements which are not disapproved by the Director may be 448
4 effective as of the date set forth in the notice required
5 under this Section. 449

6 (g) If a domestic insurer enters into a transaction 451
7 described in this subsection without having given the 452
8 required notification, the Director may cause the insurer to 453
9 pay a civil forfeiture of not more than \$250,000. Each
10 transaction so entered shall be considered a separate 454
11 offense.

12 (2) No domestic company subject to registration under 456
13 Section 131.13 may pay any extraordinary dividend or make any 457
14 other extraordinary distribution to its securityholders 458
15 until: (a) 30 days after the Director has received notice of 459
16 the declaration thereof and has not within such period
17 disapproved the payment, or (b) the Director approves such 460
18 payment within the 30-day period. For purposes of this 461
19 subsection, an extraordinary dividend or distribution is any 462
20 dividend or distribution of cash or other property whose fair 463
21 market value, together with that of other dividends or
22 distributions, made within the period of 12 consecutive 464
23 months ending on the date on which the proposed dividend is 465
24 scheduled for payment or distribution exceeds the greater of: 466
25 (a) 10% of the company's surplus as regards policyholders as 467
26 of the 31st day of December next preceding, or (b) the net 468
27 income of the company for the 12-month period ending the 31st
28 day of December next preceding, but does not include pro rata 469
29 distributions of any class of the company's own securities. 470

30 Notwithstanding any other provision of law, the company 472
31 may declare an extraordinary dividend or distribution which 473
32 is conditional upon the Director's approval, and such a 474
33 declaration confers no rights upon security holders until: 475
34 (a) the Director has approved the payment of the dividend or 476

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1 distribution, or (b) the Director has not disapproved the
2 payment within the 30-day period referred to above. 477
3 (Source: P.A. 90-655, eff. 7-30-98.) 479

4 (215 ILCS 5/131.20b new) 482
5 Sec. 131.20b. Controlled insurers; management; 484
6 directors.

7 (1) Notwithstanding the control of a domestic insurer by 486
8 any person, the officers and directors of the insurer shall 487
9 not thereby be relieved of any obligation or liability to 488
10 which they would otherwise be subject by law, and the insurer 489
11 shall be managed so as to assure its separate operating
12 identity consistent with Article VIII 1/2 of this Code. 490

13 (2) Nothing in this Section shall preclude a domestic 492
14 insurer from having or sharing a common management or a 493
15 cooperative or joint use of personnel, property, or services 495
16 with one or more affiliated persons under arrangements
17 meeting the standards and requirements of Sections 131.20 and 496
18 131.20a.

19 (3) After June 30, 2002, not less than one-third of the 498
20 directors of a domestic insurer that is a member of an 499
21 insurance holding company system shall be persons who are not 500
22 officers or employees of the insurer or of any entity
23 controlling, controlled by, or under common control with the 501
24 insurer and who are not beneficial owners of a controlling 502
25 interest in the voting stock of the insurer or any such 503
26 entity. At least one such person shall be included in any
27 quorum for the transaction of business at any meeting of the 504
28 board of directors or any committee thereof. 505

29 (4) Subsection (3) of this Section does not apply to a 507
30 domestic insurer if the entity controlling the insurer, 508
31 whether directly or through an intermediate subsidiary, has a 509
32 board of directors composed in accordance with that
33 subsection. 510

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1 (5) Subsection (3) of this Section does not apply to a 512
2 domestic insurer if the ultimate controlling party of the 513
3 domestic insurer is a corporation whose equity securities or 514
4 equivalent instruments are listed on the New York Stock
5 Exchange. 515

6 (215 ILCS 5/187) (from Ch. 73, par. 799) 518
7 Sec. 187. Scope of Article. 520

8 (1) This Article shall apply to every corporation, 522
9 association, society, order, firm, company, partnership, 523
10 individual, and aggregation of individuals to which any 524
11 Article of this Code is applicable, or which is subject to 525
12 examination, visitation or supervision by the Director under
13 any provision of this Code or under any law of this State, or 526
14 which is engaging in or proposing or attempting to engage in 527
15 or is representing that it is doing an insurance or surety 528
16 business, or is undertaking or proposing or attempting to 529
17 undertake to provide or arrange for health care services as a
18 health care plan as defined in subsection (7) of Section 1-2 530
19 of the Health Maintenance Organization Act, including the 531
20 exchanging of reciprocal or inter-insurance contracts between 532
21 individuals, partnerships and corporations in this State, or 533
22 which is in the process of organization for the purpose of
23 doing or attempting or intending to do such business, 534
24 anything as to any such corporation, association, society, 535
25 order, firm, company, partnership, individual or aggregation 536
26 of individuals provided in this Code or elsewhere in the laws 537
27 of this State to the contrary notwithstanding.

28 (2) The word "company" as used in this Article includes 539
29 all of the corporations, associations, societies, orders, 540
30 firms, companies, partnerships, and individuals specified in 541
31 subsections subsection (1), (4), and (5) of this Section and 542
32 agents, managing general agents, brokers, premium finance 543
33 companies, insurance holding companies, and all other 544

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1 non-risk bearing entities or persons engaged in any aspect of 545
2 the business of insurance on behalf of an insurer against 546
3 which a receivership proceeding has been or is being filed
4 under this Article, including, but not limited to, entities 547
5 or persons that provide management, administrative, 548
6 accounting, data processing, marketing, underwriting, claims 549
7 handling, or any other similar services to that insurer,
8 whether or not those entities are licensed to engage in the 550
9 business of insurance in Illinois, if the entity or person is 552
10 an affiliate of that insurer the word--"assets"--as--used--in 553
11 this--article--includes--all--deposits--and--funds--of--a--special--or 554
12 trust--nature.

13 (3) The word "court" shall mean the court before which 556
14 the conservation, rehabilitation, or liquidation proceeding 557
15 of the company is pending, or the judge presiding in such 558
16 proceedings.

17 (4) The word "affiliate" as used in this Article means a 560
18 person that directly, or indirectly through one or more 561
19 intermediaries, controls, is controlled by, or is under 562
20 common control with, the person specified.

21 (5) The word "person" as used in this Article means an 564
22 individual, an aggregation of individuals, a partnership, or 566
23 a corporation.

24 (6) The word "assets" as used in this Article includes 568
25 all deposits and funds of a special or trust nature. 569

26 (7) The words "receivership proceedings" mean any 571
27 conservation, rehabilitation, liquidation, or ancillary 572
28 receivership.

29 (Source: P.A. 87-1012.) 574

30 (215 ILCS 5/188) (from Ch. 73, par. 800) 577

31 Sec. 188. Grounds for rehabilitation and liquidation of a 579
32 domestic company or an unauthorized foreign or alien company. 580

33 Whenever any domestic company or any unauthorized foreign or 581

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1 alien company:

2 1. is insolvent; 583

3 2. has failed or refused to submit its books, 585

4 papers, accounts, records or affairs to the reasonable 587

5 inspection or examination of the Director or his 588

6 actuaries, supervisors, deputies, or examiners;

7 3. has concealed, removed, altered, destroyed or 590

8 failed to establish and maintain books, records, 591

9 documents, accounts, vouchers and other pertinent 592

10 material adequate for the determination of its financial

11 condition by examination under Sections 132 through 132.7 593

12 or has failed to properly administer claims and to 595

13 maintain claims records which are adequate for the

14 determination of its outstanding claims liability; 596

15 4. has failed or refused to observe an order of the 598

16 Director to make good within the time prescribed by law 601

17 any deficiency, whenever its capital and minimum required 602

18 surplus, if a stock company, or its required surplus, if 603

19 a company other than stock, has become impaired;

20 5. has, by articles of consolidation, contract of 605

21 reinsurance or otherwise, transferred or attempted to 606

22 transfer its entire property or business not in 607

23 conformity with this Code, or entered into any

24 transaction the effect of which is to merge substantially 608

25 its entire property or business in any other company 609

26 without having first obtained the written approval of the 610

27 Director under this Code;

28 6. is found to be in such condition that its 612

29 further transaction of business would be hazardous to its 613

30 policyholders, or to its creditors, or to the public; 614

31 7. has violated its charter or any law of this 616

32 State or has exceeded or is exceeding its corporate 617

33 powers;

34 8. has an officer who has refused upon reasonable 619

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1 demand to be examined under oath touching its affairs; 620
2 9. is found to be in such condition that it could 622
3 not meet the requirements for organization and 623
4 authorization as required by law, except as to the amount 624
5 of the original surplus required of a stock company in 625
6 Section 13, and except as to the amount of the surplus
7 required of a mutual company in excess of the minimum 626
8 surplus required by this Code to be maintained, or either 627
9 an authorized control level event or a mandatory control 628
10 level event as set forth in Article IIA exists;
11 10. has ceased for the period of one year to 630
12 transact insurance business; 631
13 11. has commenced, or has attempted to commence, 633
14 any voluntary liquidation or dissolution proceeding, or 634
15 any proceeding to procure the appointment of a receiver, 635
16 liquidator, rehabilitator, sequestrator, or a similar 636
17 officer for itself;
18 12. is a party, whether plaintiff or defendant in 638
19 any proceeding in which an application is made for the 639
20 appointment of a receiver, custodian, liquidator, 640
21 rehabilitator, sequestrator, or similar officer for such 641
22 company or its property, or a receiver, custodian,
23 liquidator, rehabilitator, sequestrator or similar 642
24 officer, for such company or its property is appointed by 643
25 any court, or such appointment is imminent;
26 13. consents by a majority of its directors, 645
27 stockholders or members; 646
28 14. has not organized and obtained a certificate 648
29 authorizing it to commence the transaction of its 649
30 business within the period of time prescribed by the 650
31 sections of this Code under which it is or proposes to be 651
32 organized; or
33 15. has failed or refused to pay any valid final 653
34 judgment within 30 days after the rendition thereof, or 656

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1 whenever it appears to the Director that any person has 657
2 committed a violation of Article VIII 1/2 with the result 658
3 described in Section 131.26,
4 sufficient grounds shall be deemed to exist for the 660
5 commencement of rehabilitation or liquidation proceedings. 661
6 With respect to a domestic company, the Director must 663
7 report, and with respect to an unauthorized foreign or alien 664
8 company, the Director may report any such case to the 665
9 Attorney General of this State whose duty it shall be to 666
10 apply forthwith by complaint on relation of the Director in
11 the name of the People of the State of Illinois, as 667
12 plaintiff, to the Circuit Court of Cook County, the Circuit 668
13 Court of Sangamon County, or the circuit court of the county 669
14 in which such company has, or last had its principal office, 670
15 for an order to rehabilitate or liquidate the defendant
16 company as provided in this Article, and for such other 671
17 relief as the nature of the case and the interests of its 672
18 policyholders, creditors, members, stockholders or the public 673
19 may require.
20 When, upon investigation, the Director finds that a 676
21 company is engaged in any aspect of the business of insurance
22 on behalf of or in association with any domestic insurance 677
23 company, against which a receivership proceeding has been or 678
24 is being filed under this Article, the--controlling--interest 680
25 of--any--domestic--insurance--company--has--been--acquired--by
26 another--corporation--and--that--the--purchasing--corporation--is 681
27 operating--the--acquired--company in a manner that which appears 682
28 to be detrimental to policyholders, creditors, members, 683
29 shareholders, or the interests--of--the--persons--insured, 684
30 minority--shareholders--and--the--general public, the Director 685
31 may after--notice--and--hearing--under--Article--XXIV--issue--an 686
32 order--stating--such--finding--and report such case to the
33 Attorney General of this State, whose duty it is to apply 687
34 forthwith by complaint on relation of the Director in the 688

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1 name of the People of the State of Illinois, as plaintiff, to 689
2 the ~~Circuit Court of Cook County, the Circuit Court of~~ 690
3 ~~Sangamon County, or the circuit~~ court in which of the
4 receivership proceeding is pending county--in--which--such 691
5 ~~acquired or controlled company has, or last had its principal~~ 692
6 ~~office,~~ for an order to appoint the Director as receiver to 693
7 assume control of the assets and operation of the company 694
8 pending a complete investigation and determination of the 695
9 rights of the policyholders, creditors, members, 696
10 shareholders, and the general public. 697
11 (Source: P.A. 88-364; 89-97, eff. 7-7-95; 89-206, eff. 699
12 7-21-95, 89-626, eff. 8-2-96.) 700

13 Section 10. The Health Maintenance Organization Act is 703
14 amended by changing Section 3-1 and adding Section 2-10 as 704
15 follows:

16 (215 ILCS 125/2-10 new) 707

17 Sec. 2-10. Directors. 709

18 (a) After June 30, 2002, the corporate powers for 711
19 domestic organizations issued a certificate of authority 712
20 under this Act must be exercised by, and its business and 713
21 affairs must be under the control of, a board of directors
22 composed of not less than 3 nor more than 21 natural persons 714
23 who are at least 18 years of age. At least 3 of the 716
24 directors must be residents and citizens of this State. A 717
25 person convicted of a felony may not be a director. A
26 director must be of good character and known professional, 718
27 administrative, or business ability. The requisite ability 719
28 must include a practical knowledge of managed health care, 720
29 insurance, finance, or investment.

30 (b) After June 30, 2002, not less than one-third of the 722
31 directors of a domestic organization that is not a controlled 723
32 insurer for purposes of Section 131.20b of the Illinois 724

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1 Insurance Code must be persons who are not officers or
2 employees of the organization. At least one of those persons 725
3 must be included in any quorum for the transaction of 727
4 business at any meeting of the board of directors or any 728
5 committee thereof.

6 (215 ILCS 125/3-1) (from Ch. 111 1/2, par. 1407.3) 731

7 Sec. 3-1. Investment Regulations. 733

8 (a) Any health maintenance organization may invest its 736
9 funds as provided in this Section and not otherwise. A 737
10 health maintenance organization that is organized as an
11 insurance company may also acquire the investment assets 738
12 authorized for an insurance company pursuant to the laws 739
13 applicable to an insurance company in the organization's 740
14 state of domicile. Notwithstanding the provisions of this 741
15 Section, the Director may, after notice and hearing, order an
16 organization to limit or withdraw from certain investments, 742
17 or discontinue certain investment practices, to the extent 743
18 the Director finds that such investments or investment 744
19 practices are hazardous to the financial condition of the 745
20 organization.

21 (b) No investment or loan shall be made or engaged in by 747
22 any health maintenance organization unless the same have been 748
23 authorized or ratified by the board of directors or by a 749
24 committee thereof charged with the duty of supervising 750
25 investments and loans. Nothing contained in this subsection
26 shall prevent the board of directors of any such organization 751
27 from depositing any of its securities with a committee 752
28 appointed for the purpose of protecting the interest of 753
29 security holders or with the authorities of any state where 754
30 it is necessary to do so in order to secure permission to
31 transact its appropriate business therein, and nothing 755
32 contained in this subsection shall prevent the board of 756
33 directors of such organization from depositing any securities 757

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1 as collateral for the securing of any bond required for the 758
2 business of the organization.

3 (c) No health maintenance organization shall pay any 760
4 commission or brokerage for the purchase or sale of property 761
5 whether real or personal, in excess of that usual and 762
6 customary at the time and in the locality where such 763
7 purchases or sales are made, and information regarding
8 payments of commissions and brokerage shall be maintained. 764

9 (d) A health maintenance organization may not directly 766
10 or indirectly, unless it has notified the Director in writing 768
11 of its intention to enter into the transaction at least 30 769
12 days prior thereto, or any shorter period as the Director may 770
13 permit, and the Director has not disapproved it within that
14 period. 771

15 (1) make a loan to or other investment in an 773
16 officer or director of the organization or a person in 774
17 which the officer or director has any direct or indirect 775
18 financial interest;

19 (2) make a guarantee for the benefit of or in favor 777
20 of an officer or director of the organization or a person 778
21 in which the officer or director has any direct or 779
22 indirect financial interest; or

23 (3) enter into an agreement for the purchase or 781
24 sale of property from or to an officer or director of the 783
25 organization or a person in which the officer or director 784
26 has any direct or indirect financial interest.

27 For the purposes of this Section, an officer or director 786
28 shall not be deemed to have a financial interest by reason of 787
29 an interest that is held directly or indirectly through the 788
30 ownership of equity interests representing less than 2% of 789
31 all outstanding equity interests issued by a person that is a
32 party to the transaction, or solely by reason of that 790
33 individual's position as a director or officer of a person 791
34 that is a party to the transaction.

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1 This subsection does not apply to a transaction between 793
2 an organization and any of its subsidiaries or affiliates 794
3 that is entered into in compliance with Section 131.20a of 795
4 the Illinois Insurance Code, other than a transaction between 796
5 an insurer and its officer or director.

6 ~~No such Health Maintenance Organization shall knowingly~~ 798
7 ~~invest in or loan upon any property, directly or indirectly,~~ 799
8 ~~whether real or personal, in which any officer or director of~~ 800
9 ~~such organization has a financial interest, nor shall any~~ 801
10 ~~such organization make a loan of any kind to any officer or~~ 802
11 ~~director of such organization, except that this subsection~~ 803
12 ~~shall not apply in circumstances where the financial interest~~
13 ~~of such officer or director is only nominal, trifling or so~~ 804
14 ~~remote as not to give rise to a conflict of interest. In any~~ 805
15 ~~case, the Director may approve a transaction between such~~ 806
16 ~~organization and its officers or directors under this~~ 807
17 ~~subsection if he is satisfied that (i) the transaction is~~
18 ~~entered into in good faith for the advantage and benefit of~~ 808
19 ~~the organization; (ii) the amount of the proposed investment~~ 809
20 ~~or loan does not violate any other provision of this Section~~ 810
21 ~~nor exceed the reasonable, normal value of the property or~~ 811
22 ~~the interest which the organization proposes to acquire; and~~
23 ~~that the transaction is otherwise fair and reasonable; and~~ 812
24 ~~(iii) the transaction will not adversely affect, to any~~ 813
25 ~~substantial degree, the liquidity of the organization's~~ 814
26 ~~investment or its ability thereafter to comply with~~ 815
27 ~~requirements of this Act or the payment of its claims and~~
28 ~~obligations.~~ 816

29 (e) In applying the percentage limitations imposed by 818
30 this section there shall be used as a base the total of all 819
31 assets which would be admitted by this Section without regard 820
32 to percentage limitations. All legal measurements used as a 821
33 base in the determination of all investment qualifications 822
34 shall consist of the amounts determined at the most recent

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1 year end adjusted for subsequent acquisition and disposition 823
2 of investments.

3 (f) Valuation of investments. Investments shall be 825
4 valued in accordance with the published valuation standards 826
5 of the National Association of Insurance Commissioners. 827
6 Securities investments as to which the National Association 828
7 of Insurance Commissioners has not published valuation 829
8 standards in its Valuations of Securities manual or its
9 successor publication shall be valued as follows: 830

10 (1) All obligations having a fixed term and rate shall, 832
11 if not in default as to principal or interest, be valued as 833
12 follows: if purchased at par, at the par value; if purchased 834
13 above or below par, on the basis of the purchase price 835
14 adjusted so as to bring the value to par at maturity and so
15 as to yield in the meantime the effective rate of interest at 836
16 which the purchase was made;

17 (2) Common, preferred or guaranteed stocks shall be 838
18 valued at market value.

19 (3) Other security investments shall be valued in 840
20 accordance with regulations promulgated by the Director 841
21 pursuant to paragraph (6) of this subsection.

22 (4) Other investments, including real property, shall be 843
23 valued in accordance with regulations promulgated by the 844
24 Director pursuant to paragraph (6) of this subsection, but in 845
25 no event shall such other investments be valued at more than 846
26 the purchase price. The purchase price for real property 847
27 includes capitalized permanent improvements, less
28 depreciation spread evenly over the life of the property or, 848
29 at the option of the company, less depreciation computed on 849
30 any basis permitted under the Internal Revenue Code and 850
31 regulations thereunder. Such investments that have been 851
32 affected by permanent declines in value shall be valued at
33 not more than market value. 852

34 (5) Any investment, including real property, not 854

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1 purchased by the Health Maintenance Organization but acquired 855
2 in satisfaction of a debt or otherwise shall be valued in 856
3 accordance with the applicable procedures for that type of 857
4 investment contained in this subsection. For purposes of
5 applying the valuation procedures, the purchase price shall 858
6 be deemed to be the market value at the time the investment 859
7 is acquired or, in the case of any investment acquired in 860
8 satisfaction of debt, the amount of the debt, including 861
9 interest, taxes and expenses, whichever amount is less.

10 (6) The Director shall promulgate rules and regulations 863
11 for determining and calculating values to be used in 864
12 financial statements submitted to the Department for 865
13 investments.

14 (g) Definitions. As used in this Section, unless the 867
15 context otherwise requires. 868

16 (1) "Business Corporation" means corporations organized 870
17 for other than not for profit purposes. 871

18 (2) "Business Entity" includes sole proprietorships, 873
19 corporations, associations, partnerships and business trusts. 874

20 (3) "Bank or Trust Company" means any bank or trust 876
21 company organized under the laws of the United States or any 877
22 State thereof if said bank or trust company is regularly 878
23 examined pursuant to such laws and said bank or trust company 879
24 has the insurance protection afforded by an agency of the
25 United States government. 880

26 (4) "Capital" means capital stock paid-up, if any, and 882
27 its use in a provision does not imply that a non-profit 883
28 Health Maintenance Organization without stated capital stock 884
29 is excluded from the provision. The capital of such an 885
30 organization will be zero.

31 (5) "Direct" when used in connection with "obligation" 887
32 means that the designated obligor shall be primarily liable 888
33 on the instrument representing the obligation. 889

34 (6) "Facility" means and includes real estate and any 891

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1 and all forms of tangible personal property and services used 892
2 constituting an operating unit.

3 (7) "Guaranteed or insured" means that the guarantor or 894
4 insurer will perform or insure the obligation of the obligor 895
5 or will purchase the obligation to the extent of the guaranty 896
6 or insurance.

7 (8) "Mortgage" shall include a trust deed or other lien 898
8 on real property securing an obligation for the payment of 899
9 money.

10 (9) "Servicer" means a business entity that has a 901
11 contractual obligation to service a pool of mortgage loans. 902
12 The service provided shall include, but is not limited to, 903
13 collection of principal and interest, keeping the accounts 904
14 current, maintaining or confirming in force hazard insurance
15 and tax status and providing supportive accounting services. 905

16 (10) "Single credit risk" means the direct, guaranteed 907
17 or insured obligations of any one business entity including 908
18 affiliates thereof.

19 (11) "Surplus" means the amount properly shown as total 910
20 net worth on a company's balance sheet, plus all voluntary 911
21 reserves, but not including capital paid-up. 912

22 (12) "Tangible net worth" means the par value of all 914
23 issued and outstanding capital stock of a corporation (or in 915
24 the case of shares having no par value, the stated value) and 916
25 the amounts of all surplus accounts less the sum of (a) such 917
26 intangible assets as deferred charges, organization and 918
27 development expense, discount and expense incurred in
28 securing capital, good will, trade-marks, trade-names and 919
29 patents, (b) leasehold improvements, and (c) any reserves 920
30 carried by the corporation and not otherwise deducted from 921
31 assets.

32 (13) "Unconditional" when used in connection with 923
33 "obligation" means that nothing remains to be done or to 924
34 occur to make the designated obligor liable on the 925

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1 instrument, and that the legal holder shall have the status
2 at least equal to that of general creditor of the obligor. 926
3 (h) Authorized investments. Any Health Maintenance 928
4 Organization, except those organized as an insurance company, 929
5 may acquire the assets set forth in paragraphs 1 through 17, 930
6 inclusive. A Health Maintenance Organization that is 931
7 organized as an insurance company may acquire the investment
8 assets authorized for an insurance company pursuant to the 932
9 laws applicable to an insurance company in the organization's 933
10 state of domicile. Any restriction, exclusion or provision 934
11 appearing in any paragraph shall apply only with respect to 935
12 the authorization of the particular paragraph in which it 936
13 appears and shall not constitute a general prohibition and
14 shall not be applicable to any other paragraph. The 937
15 qualifications or disqualifications of an investment under 938
16 one paragraph shall not prevent its qualification in whole or 939
17 in part under another paragraph, and an investment authorized
18 by more than one paragraph may be held under whichever 940
19 authorizing paragraph the organization elects. An investment 941
20 which qualified under any paragraph at the time it was 942
21 acquired or entered into by an organization shall continue to 943
22 be qualified under that paragraph. An investment in whole or
23 in part may be transferred from time to time, at the election 944
24 of the organization, to the authority of any paragraph under 945
25 which it qualifies, whether originally qualifying thereunder 946
26 or not.
27 (1) Direct obligations of the United States for the 948
28 payment of money, or obligations for the payment of money to 949
29 the extent guaranteed or insured as to the payment of 950
30 principal and interest by the United States. 951
31 (2) Direct obligations for the payment of money, issued 953
32 by an agency or instrumentality of the United States, or 954
33 obligations for the payment of money to the extent guaranteed 955
34 or insured as to the payment of principal and interest by an 956

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1 agency or instrumentality of the United States.

2 (3) Direct, general obligations of any state of the 958

3 United States for the payment of money, or obligations for 959

4 the payment of money to the extent guaranteed or insured as 960

5 to the payment of principal and interest by any state of the 961

6 United States, on the following conditions:

7 (i) Such state has the power to levy taxes for the 963

8 prompt payment of the principal and interest of such 964

9 obligations; and

10 (ii) Such state shall not be in default in the payment 966

11 of principal or interest on any of its direct, guaranteed or 967

12 insured obligations at the date of such investment. 968

13 (4) Direct, general obligations of any political 970

14 subdivision of any state of the United States for the payment 971

15 of money, or obligations for the payment of money to the 972

16 extent guaranteed as to the payment of principal and interest 973

17 by any political subdivision of any state of the United 974

18 States, on the following conditions:

19 (i) The obligations are payable or guaranteed from ad 976

20 valorem taxes;

21 (ii) Such political subdivision is not in default in the 978

22 payment of principal or interest on any of its direct or 979

23 guaranteed obligations;

24 (iii) No investment shall be made under this paragraph 981

25 in obligations which are secured only by special assessments 982

26 for local improvements; and

27 (iv) An organization shall not invest under this 984

28 paragraph more than 2% of its admitted assets in obligations 985

29 issued or guaranteed by any one such political subdivision. 986

30 (5) Anticipation obligations of any political 988

31 subdivision of any state of the United States, including but 989

32 not limited to bond anticipation notes, tax anticipation 990

33 notes and construction anticipation notes, for the payment of 991

34 money within 12 months from the issuance of the obligation, 992

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1 on the following conditions:

2 (i) Such anticipation notes must be a direct obligation 994
3 of the issuer under conditions set forth in paragraph 4; 995

4 (ii) Such political subdivision is not in default in the 997
5 payment of the principal or interest on any of its direct 998
6 general obligations or any obligation guaranteed by such 999
7 political subdivision;

8 (iii) The anticipated funds must be specifically pledged 1001
9 to secure the obligation; 1002

10 (iv) An organization shall not invest under this 1004
11 paragraph more than 2% of its admitted assets in the 1005
12 anticipation obligations issued by any one such political 1006
13 subdivision.

14 (6) Obligations of any state of the United States, a 1008
15 political subdivision thereof, or a public instrumentality of 1009
16 any one or more of the foregoing, for the payment of money, 1010
17 on the following conditions:

18 (i) The obligations are payable from revenues or 1012
19 earnings of a public utility of such state, political 1013
20 subdivision, or public instrumentality which are specifically 1014
21 pledged therefor;

22 (ii) The law under which the obligations are issued 1016
23 requires such rates for service shall be charged and 1017
24 collected at all times that they will produce sufficient 1018
25 revenue or earnings together with any other revenues or 1019
26 moneys pledged to pay all operating and maintenance charges
27 of the public utility and all principal and interest on such 1020
28 obligations;

29 (iii) No prior or parity obligations payable from the 1022
30 revenues or earnings of that public utility are in default at 1023
31 the date of such investment;

32 (iv) An organization shall not invest more than 20% of 1025
33 its admitted assets under this paragraph; and 1026

34 (v) An organization shall not invest under this Section 1028

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1 more than 2% of its admitted assets in the revenue 1029
2 obligations issued in connection with any one facility. 1030
3 (7) Obligations of any state of the United States, a 1032
4 political subdivision thereof, or a public instrumentality of 1033
5 any of the foregoing, for the payment of money, on the 1034
6 following conditions:
7 (i) The obligations are payable from revenues or 1036
8 earnings, excluding revenues or earnings from public 1037
9 utilities, specifically pledged therefor by such state, 1038
10 political subdivision or public instrumentality:
11 (ii) No prior or parity obligation of the same issuer 1040
12 payable from revenues or earnings from the same source has 1041
13 been in default as to principal or interest during the 5 1042
14 years next preceding the date of such investment, but such 1043
15 issuer need not have been in existence for that period, and 1044
16 obligations acquired under this paragraph may be newly
17 issued;
18 (iii) An organization shall not invest in excess of 20% 1046
19 of its admitted assets under this paragraph; and 1047
20 (iv) An organization shall not invest under this 1049
21 paragraph more than 2% of its admitted assets in the revenue 1050
22 obligations issued in connection with any one facility; 1051
23 (v) An organization shall not invest under this 1053
24 paragraph more than 2% of its admitted assets in revenue 1054
25 obligations payable from revenue or earning sources which are 1055
26 the contractual responsibility of any one single credit risk. 1056
27 (8) Direct, unconditional obligations of a solvent 1058
28 business corporation for the payment of money, including 1059
29 obligations to pay rent for equipment used in its business or 1060
30 obligations for the payment of money to the extent guaranteed 1061
31 or insured as to the payment of principal and interest by any
32 solvent business corporation, on the following conditions: 1062
33 (i) The corporation shall be incorporated under the laws 1064
34 of the United States or any state of the United States; 1065

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1 (ii) The corporation shall have tangible net worth of 1067
2 not less than \$1,000,000; 1068

3 (iii) No such obligation, guarantee or insurance of the 1070
4 corporation has been in default as to principal or interest 1071
5 during the 5 years preceding the date of investment, but the 1072
6 corporation need not have had obligations guarantees or 1073
7 insurance outstanding during that period and need not have
8 been in existence for that period, and obligations acquired 1074
9 under this paragraph may be newly issued; 1075

10 (iv) An organization shall not invest more than 2% of 1077
11 its admitted assets in obligations issued, guaranteed or 1078
12 insured by any one such corporation;

13 (v) An organization may invest under this paragraph up 1080
14 to an additional 2% of its admitted assets in obligations 1081
15 which (i) are issued, guaranteed or insured by any one or 1082
16 more such corporations, each having a tangible net worth of 1083
17 not less than \$25,000,000 and (ii) mature within 12 months
18 from the date of acquisition; 1084

19 (vi) An organization may invest not more than 1/2 of 1% 1086
20 of its admitted assets in such obligations of corporations 1087
21 which do not meet the condition of subparagraph (ii) of this 1088
22 paragraph; and

23 (vii) An organization shall not invest more than 75% of 1090
24 its admitted assets under this paragraph. 1091

25 (9) Direct, unconditional obligations for the payment of 1093
26 money issued or obligations for the payment of money to the 1094
27 extent guaranteed as to principal and interest by a solvent 1095
28 not for profit corporation, on the following conditions: 1096

29 (i) The corporation shall be incorporated under the laws 1098
30 of the United States or of any state of the United States; 1099

31 (ii) The corporation shall have been in existence for at 1101
32 least 5 years and shall have assets of at least \$2,000,000; 1102

33 (iii) Revenues or other income from such assets and the 1104
34 services or commodities dispensed by the corporation shall be 1105

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1 pledged for the payment of the obligations or guarantees; 1106
2 (iv) No such obligation or guarantee of the corporation 1108
3 has been in default as to principal or interest during the 5 1109
4 years next preceding the date of such investment, but the 1110
5 corporation need not have had obligations or guarantees 1111
6 outstanding during that period and obligations which are
7 acquired under this paragraph may be newly issued; 1112
8 (v) An organization shall not invest more than 15% of 1114
9 its admitted assets under this paragraph; and 1115
10 (vi) An organization shall not invest under this 1117
11 paragraph more than 2% of its admitted assets in the 1118
12 obligations issued or guaranteed by any one such corporation. 1119
13 (10) Direct, unconditional nondemand obligations for the 1121
14 payment of money issued by a solvent bank, mutual savings 1122
15 bank or trust company on the following conditions: 1123
16 (i) The bank, mutual savings bank or trust company shall 1125
17 be incorporated under the laws of the United States, or of 1126
18 any state of the United States; 1127
19 (ii) The bank, mutual savings bank or trust company 1129
20 shall have tangible net worth of not less than \$1,000,000; 1130
21 (iii) Such obligations must be of the type which are 1132
22 insured by an agency of the United States or have a maturity 1133
23 of no more than 1 day;
24 (iv) An organization shall not invest under this 1135
25 paragraph more than the amount which is fully insured by an 1136
26 agency of the United States plus 2% of its admitted assets in 1137
27 nondemand obligations issued by any one such financial 1138
28 institution; and
29 (v) An organization may invest under this paragraph up 1140
30 to an additional 8% of its admitted assets in nondemand 1141
31 obligations which (1) are issued by any such banks, mutual 1142
32 savings banks or trust companies, each having a tangible net 1143
33 worth of not less than \$25,000,000 and (2) mature within 12 1144
34 months from the date of acquisition.

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APP

1 (11) Preferred or guaranteed stocks issued or guaranteed 1146
2 by a solvent business corporation incorporated under the laws 1147
3 of the United States or any state of the United States, on 1148
4 the following conditions:

5 (i) The corporation shall have tangible net worth of not 1150
6 less than \$1,000,000; 1151

7 (ii) If such stocks have been outstanding prior to 1153
8 purchase, an organization shall not invest under this 1154
9 paragraph in such stock if prescribed current or cumulative 1155
10 dividends are in arrears;

11 (iii) An organization shall not invest more than 33 1/3% 1157
12 of its admitted assets under this paragraph and an 1158
13 organization shall not invest more than 15% of its admitted 1159
14 assets under this paragraph in stocks which, at the time of 1160
15 purchase, are not Sinking Fund Stocks. An issue of preferred
16 or guaranteed stock shall be a Sinking Fund Stock when (1) 1161
17 such issue is subject to a 100% mandatory sinking fund or 1162
18 similar arrangement which will provide for the redemption of 1163
19 the entire issue over a period not longer than 40 years from 1164
20 the date of purchase; (2) annual mandatory sinking fund
21 installments on each issue commence not more than 10 years 1165
22 from the date of issue; and (3) each annual sinking fund 1166
23 installment provides for the purchase or redemption of at 1167
24 least 2 1/2% of the original number of shares of such issue; 1168
25 and

26 (iv) An organization shall not invest under this 1170
27 paragraph more than 2% of its admitted assets in the 1171
28 preferred or guaranteed stocks of any one such corporation. 1172

29 (12) Common stock issued by any solvent business 1174
30 corporation incorporated under the laws of the United States, 1175
31 or of any state of the United States, on the following 1176
32 conditions:

33 (i) The issuing corporation must have tangible net worth 1178
34 of \$1,000,000 or more: 1179

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1 (ii) An organization may not invest more than an amount 1181
2 equal to its net worth under this paragraph; and 1182
3 (iii) An organization may not invest under this 1184
4 paragraph an amount equal to more than 10% of its net worth 1185
5 in the common stock of any one corporation. 1186
6 (13) Shares of common stock or units of beneficial 1188
7 interest issued by any solvent business corporation or trust 1189
8 incorporated or organized under the laws of the United 1190
9 States, or of any state of the United States, on the 1191
10 following conditions:
11 (i) If the issuing corporation or trust is advised by an 1193
12 investment advisor which is the organization or an affiliate 1194
13 of the organization, the issuing corporation or trust shall 1195
14 have net assets of \$100,000 or more, or if the issuing 1196
15 corporation or trust has an unaffiliated investment advisor,
16 the issuing corporation or trust shall have net assets of 1197
17 \$10,000,000 or more;
18 (ii) The issuing corporation or trust is registered as 1199
19 an investment company with the Securities and Exchange 1200
20 Commission under the Investment Company Act of 1940, as 1201
21 amended;
22 (iii) An organization shall not invest under this 1203
23 paragraph more than the greater of \$100,000 or 10% of its 1204
24 admitted assets in any one bond fund, municipal bond fund or 1205
25 money market fund;
26 (iv) An organization shall not invest under this 1207
27 paragraph more than 10% of its net worth in any one common 1208
28 stock fund, balanced fund or income fund;
29 (v) An organization shall not invest more than 50% of 1210
30 its admitted assets in bond funds, municipal bond funds and 1211
31 money market funds under this paragraph; and 1212
32 (vi) An organization's investments in common stock 1214
33 funds, balanced funds or income funds when combined with its 1215
34 investments in common stocks made under paragraph (12) shall 1216

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1 not exceed the aggregate limitation provided by subparagraph 1217
2 (ii) of paragraph (12).
3 (14) Shares of, or accounts or deposits with savings and 1219
4 loan associations or building and loan associations, on the 1220
5 following conditions:
6 (i) The shares, accounts, or deposits, or investments in 1222
7 any form legally issuable shall be of a withdrawable type and 1223
8 issued by an association which has the insurance protection 1224
9 afforded by the Federal Savings and Loan Insurance 1225
10 Corporation; but nonwithdrawable accounts which are not 1226
11 eligible for insurance by the Federal Savings and Loan
12 Insurance Corporation shall not be eligible for investment 1227
13 under this paragraph:
14 (ii) The association shall have tangible net worth of 1229
15 not less than \$1,000,000; 1230
16 (iii) The investment shall be in the name of and owned 1232
17 by the organization, unless the account is under a 1233
18 trusteeship with the organization named as the beneficiary; 1234
19 (iv) An organization shall not invest more than 50% of 1236
20 its admitted assets under this paragraph; and 1237
21 (v) Under this paragraph, an organization shall not 1239
22 invest in any one such association an amount in excess of 2% 1240
23 of its admitted assets or an amount which is fully insured by 1241
24 the Federal Savings and Loan Insurance Corporation, whichever 1242
25 is greater.
26 (15) Direct, unconditional obligations for the payment 1244
27 of money secured by the pledge of any investment which is 1245
28 authorized by any of the preceding paragraphs, on the 1246
29 following conditions:
30 (i) The investment pledged shall by its terms be legally 1248
31 assignable and shall be validly assigned to the organization; 1249
32 (ii) The investment pledged shall have a fair market 1251
33 value which is at least 25% greater than the amount invested 1252
34 under this paragraph, except that a loan may be made up to 1253

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1 100% of the full fair market value of collateral that would 1254
2 qualify as an investment under paragraph (1) provided it 1255
3 qualifies under condition (i) of this paragraph; and

4 (iii) An organization's investment under this paragraph 1257
5 when added to its investment of the category of the 1258
6 collateral pledged shall not cause the sum to exceed the 1259
7 limits provided by the paragraph authorizing that category of 1260
8 investments.

9 (16) Real estate (including leasehold estates and 1262
10 leasehold improvements) for the convenient accommodation of 1263
11 the organization's business operations, including home 1264
12 office, branch office, medical facilities and field office 1265
13 operations, on the following conditions:

14 (i) Any parcel of real estate acquired under this 1267
15 paragraph may include excess space for rent to others, if it 1268
16 is reasonably anticipated that such excess will be required 1269
17 by the organization for expansion or if the excess is 1270
18 reasonably required in order to have one or more buildings
19 that will function as an economic unit; 1271

20 (ii) Such real estate may be subject to a mortgage; and 1273

21 (iii) The greater of the admitted value of the asset as 1275
22 determined by subsection (f) or the organization's equity 1276
23 plus all encumbrances on such real estate owned by a company 1277
24 under this paragraph shall not exceed 20% of its admitted 1278
25 assets, except with the permission of the Director if he
26 finds that such percentage of its admitted assets is 1279
27 insufficient to provide convenient accommodation for the 1280
28 company's business; provided, however, an organization that 1281
29 directly provides medical services may invest an additional 1282
30 20% of its admitted assets in such real estate, not requiring
31 the permission of the Director. 1283

32 (17) Any investments of any kind, in the complete 1285
33 discretion of the organization, without regard to any 1286
34 condition of, restriction in, or exclusion from paragraphs 1287

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1 (1) to (16), inclusive, and regardless of whether the same or 1288
2 a similar type of investment has been included in or omitted
3 from any such paragraph, on the following condition: 1289
4 (a) An organization shall not invest under this 1291
5 paragraph more than the lesser of (i) 10% of its admitted 1292
6 assets, or (ii) 50% of the amount by which its net worth 1293
7 exceeds the minimum requirements of a new health maintenance 1294
8 organization to qualify for a certificate of authority.
9 (Source: P.A. 90-655, eff. 7-30-98.) 1296

10 Section 99. Effective date. This Act takes effect upon 1299
11 becoming law.

APPROVED

this 24th day of July, 20 01 A.D.,
George H. Ryan
GOVERNOR

Michael J. Madigan
Speaker, House of Representatives
John J. Durkin
President of the Senate

